

CALIFORNIA ENERGY COMMISSION1516 NINTH STREET
SACRAMENTO, CA 95814-5512**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION****NOTICE OF PROPOSED CHANGES TO
APPLIANCE EFFICIENCY REGULATIONS
Docket Number 02-Appl-01**

On November 20, 2002, the Energy Commission instituted an emergency rulemaking proceeding to consider changes to the Commission's appliance efficiency regulations. The Commission delegated to its Efficiency Standards Committee (Commissioner Pernell, Presiding Member, and Commissioner Rosenfeld) the authority to conduct the proceeding.

The rulemaking proceeding was begun in response to a lawsuit filed by four major appliance manufacturer trade associations, in the federal district court for the Eastern District of California: *Air-Conditioning and Refrigeration Institute, et al. v. Energy Resources Conservation and Development Commission, et al.*, E.D. Cal. No. CIV S 02-2437 WBS PAN. The lawsuit asserts that certain provisions in the appliance efficiency regulations are preempted by federal law; the Commission has contested most of the assertions. The litigation is still pending.

When it adopted the order instituting the rulemaking proceeding, the Commission believed that it might be able to make changes to the regulations that would meet the practical, real-world concerns of the four trade associations that filed the lawsuit, and thereby obviate the need for the lawsuit. Thus the Commission stated that "[i]n addition to all other relevant factors, the Commission will consider whether the adoption or amendment of any regulation could render part or all of the litigation moot." To assess the possibility of such a resolution of the issues, the Commission Staff held a public workshop on December 13, 2002, which was attended by representatives of all four of the associations. Several proposals were discussed.

In the attached document, the Efficiency Standards Committee is now publishing proposed changes to the regulations. The Committee believes that the proposed changes meet the concerns of the associations as discussed at the workshop, while still obtaining for the public the benefits of the current regulations. Some of the proposed changes reflect corrections of mistakes or needed clarifications, which should be made regardless of the course of the litigation. Other changes are being proposed solely in response to the associations' concerns. Of course, it would be useless for the Commission to change the regulations in an attempt to meet the associations' needs if the associations' continued to assert that the regulations, even as amended, are preempted. Therefore, some of the proposed changes in the attached document are marked with the statement that the Committee will recommend their adoption only if the associations will agree to drop the parts of their lawsuit that challenge the provisions at issue.

The Committee will hold a hearing on the proposed changes at a hearing on January 21, 2003, at 1:30 p.m., and the Commission will consider adopting the changes at its January 22, 2003 Business Meeting, which begins at 10:00 a.m. Both events will take place at the Commission's headquarters, 1516 Ninth Street in Sacramento, which is wheelchair-accessible. The Committee encourages interested persons and organizations to comment on the proposed changes by speaking at the public events and by submitting written comments. Please submit nine copies of all written comments to:

Docket No. 02-Appl-01
California Energy Commission
1516 Ninth Street, Mail Station 4
Sacramento, California 95814-5512

The Commission's Public Adviser is available to help any person who wants to participate in this proceeding. Please call (916) 654-4489 or toll-free in California at (800) 822-6288, or contact pao@energy.state.ca.us. If you have questions about the substantive issues in the rulemaking, please contact Jonathan Blees at JBlees@energy.state.ca.us.